

COPPER VALLEY NATIVE ALLOTMENT RESOLUTION ACT  
OF 2007

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APRIL 17, 2007.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. RAHALL, from the Committee on Natural Resources,  
submitted the following

R E P O R T

[To accompany H.R. 865]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 865) to grant rights-of-way for electric transmission lines over certain Native allotments in the State of Alaska, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 865 is to grant rights of way for electric transmission lines over certain Native allotments in the State of Alaska.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 865 seeks to resolve a conflict in 14 cases between land titles issued under the Alaska Native Allotment Act of 1906 and rights-of-way granted by the Department of the Interior to the Copper Valley Electric Association, a rural non-profit electrical cooperative that provides electricity to about 4,000 members in Alaska's Valdez and Copper River Basin areas. Extensive background on the subject may be found in the U.S. Government Accountability Office report: "Alaska Native Allotments: Conflicts with Utility Rights-of-way Have Not Been Resolved through Existing Remedies" (GAO-04-923, September 7, 2004).

Under the Alaska Native Allotment Act of 1906, the Secretary of the Interior was authorized to grant individual Alaska Natives a

homestead of up to 160 acres of land. The Alaska Native Allotment Act was repealed by the Alaska Native Claims Settlement Act (Pub. L. 92–203) in 1971, and many allotment applications were filed shortly prior to the repeal. In 1980, Congress legislatively approved, subject to valid existing rights, pending Native Allotment claims in the Alaska National Interest Lands Conservation Act (Pub. L. 96–487).

Although Copper Valley Electric Association holds right-of-ways granted in the 1950's and 1960's, and built electric lines prior to the filing of Alaska Native Allotment claims, the Interior Board of Land Appeals determined in 1987 that the Alaska Native allottees have priority under the “relation back doctrine.” Since then, efforts to resolve the conflicts between the federal laws have been largely unsuccessful.

H.R. 865 ratifies existing rights-of-way across the 14 specified Native Allotments for electric transmission lines owned by the Copper Valley Electric Association. H.R. 865 also requires the Secretary of the Interior to appraise the fair market value of the rights-of-way and provides that compensation will be paid to the owners of the Native Allotments from the Treasury's permanent Judgment Fund (31 U.S.C. Section 1304).

#### COMMITTEE ACTION

H.R. 865 was introduced on February 6, 2007 by Representative Don Young (R–Alaska). The bill was referred to the Committee on Natural Resources. In the 109th Congress, the Committee held a hearing on a similar bill, H.R. 5781, on September 13, 2006.

On March 7, 2007, the full Committee on Natural Resources met to consider H.R. 865. The bill was ordered favorably reported to the House of Representatives by voice vote.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 entitles the bill the “Copper Valley Native Allotment Resolution Act of 2007.”

##### *Section 2. Definitions*

Section 2 defines the terms used in the Act.

##### *Section 3. Electrical transmission line rights-of-way*

Section 3(a) grants rights-of-way across the Native allotments for an electrical transmission line owned by the Copper Valley Electric Association. Section 3(b) requires that the Secretary of the Interior shall determine an accurate legal description of the rights-of-way, the nature of the rights granted, and the widths of the right-of-way. Subsection 3(c) clarifies that the Act does not apply to land owned by Ahtna, Inc. Section 3(d)(1) and (2) establishes a procedure for the Secretary to appraise the rights-of-way, provide notice, calculate payments and compensate Native allotment owners. Section 3(d)(3) provides that compensation to the Native allotment owners shall be paid from the permanent judgment appropriation under 31 U.S.C. Section 1304. Section 3(d)(4) limits judicial review to the determination of the Secretary regarding compensation.

*Section 4. Authorization of appropriations*

Section 4 authorizes such sums as may be necessary to carry out this Act.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATION

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, compensation paid to Native allotment holders from the Treasury's permanent Judgment Fund pursuant to H.R. 865 would result in an increase in direct spending of as much as \$150,000.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to grant rights-of-way for electric transmission lines over certain Native allotments in the State of Alaska.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

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H.R. 865 would grant rights-of-way to the Copper Valley Electric association across certain Alaskan Native allotments for electric transmission lines owned by the association. The Secretary of the Interior would be required to appraise the allotments for fair market value, and would compensate the landholders.

Based on information from the Department of the Interior, CBO estimates that implementing H.R. 865 would not have a significant effect on the federal budget. We estimate that granting rights-of-way would increase the Bureau of Land Management's administrative costs to prepare assessments of the value of the rights-of-way by less than \$500,000, assuming the availability of appropriated

funds. Compensation paid to allotment holders would be paid from the Treasury's permanent Judgment Fund, and would be considered an increase in direct spending of as much as \$150,000, CBO estimates. Enacting H.R. 865 would not affect revenues.

H.R. 865 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

H.R. 865 would impose a private-sector mandate as defined in UMRA on certain owners of Native allotments in Alaska. It would grant the Copper Valley Electric Association rights-of-way across 14 allotments. Based on information from government sources, CBO estimates the direct cost of complying with that mandate would be minimal compared to the annual threshold for private-sector mandates established in UMRA (\$131 million in 2007, adjusted annually for inflation).

The staff contact for this estimate is Tyler Kruzich. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### EARMARK STATEMENT

H.R. 865 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

